



Texas Department of Insurance

Workers' Compensation Research and Evaluation Group

Insurance Carrier Pharmacy Closed Formulary Data Call Results on Legacy N-Drug Claims As of August 31, 2013

December 2013

This report is available at www.tdi.texas.gov/wc/regulation/roc. Information in this report can be obtained in alternative formats by contacting the Texas Department of Insurance via email at WCREsearch@tdi.texas.gov

Background

Effective September 1, 2013, legacy claims—injuries that occurred prior to September 1, 2011—are subject to the pharmacy closed formulary adopted by the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC).¹ The pharmacy closed formulary includes all FDA-approved drugs, except for investigational and experimental drugs and excludes drugs listed as “N” drugs (or “not recommended” drugs) in Appendix A of TDI-DWC’s adopted treatment guidelines – the Official Disability Guidelines: Treatment in Workers’ Comp, published by the Work Loss Data Institute. Prescriptions for drugs that are excluded from the formulary require preauthorization from the insurance carrier before they can be dispensed, unless an agreement is reached between the insurance carrier and the prescribing doctor on a claim-by-claim basis.

In an ongoing effort to monitor the number of these claims, the Workers’ Compensation Research and Evaluation Group (REG), on behalf of TDI-DWC, recently concluded three data calls to selected insurance carriers (see Table 1) for the purpose of collecting information on legacy claims that have been prescribed and dispensed at least one of the drugs excluded from the TDI-DWC’s adopted pharmacy closed formulary (i.e., N-Drugs). It should be noted that the information in this report is a summary of the data these selected insurance carriers self-reported to the REG.

Table 1
Selected Insurance Carriers

Ace American Insurance Co	Old Republic Insurance Co
American Home Assurance Co	Safeco Insurance Co of America
Amguard Insurance Co	State Office of Risk Management
Arrowood Indemnity Co	Texas A & M University System
Big Spring ISD	Texas Cotton Ginners Trust
City of Austin	Texas Department of Transportation
Facility Insurance Corp	Texas Mutual Insurance Co
Harris County	Texas Property & Casualty Insurance Guaranty Association
Hartford Fire Insurance Co	Travelers Indemnity Co

¹ Claims with dates of injury on or after September 1, 2011 (new claims) have been subject to the closed formulary since September 2011.

Hartford Ins Co of the Midwest	Travis County
Indemnity Insurance Co of North America	Texas Municipal League Intergovernmental Risk Pool
Insurance Co of the State of PA	United States Fidelity & Guaranty Co
Liberty Insurance Corp	University of Texas System
Liberty Mutual Fire Insurance Co	Zurich American Insurance Co
New Hampshire Insurance Co	

The data calls (held in March, July, and August 2013) requested that the selected insurance carriers report on their outreach activities as they relate to the implementation of the pharmacy closed formulary for legacy claims, especially for the requirement under 28 Texas Administrative Code (TAC) §134.510, which states that insurance carriers must send a written notification to the injured employee, prescribing doctor, and pharmacy (if known) informing them that the closed formulary will apply to legacy claims effective September 1, 2013. In addition to the numbers of letters that insurance carriers sent, the data calls requested that insurance carriers submit the number of peer-to-peer conversations conducted between the insurance carrier and the prescribing doctors, as well as the number of agreements reached on all legacy claims that received at least one N-drug prescription between September 1, 2012 and August 31, 2013. Results from the data calls confirm that insurance carriers who conduct peer-to-peer conversations have a higher-than 70 percent success rate achieving agreements on individual legacy claims.²

As announced in the data call memo, this report presents the key results from the collected information, aggregated by insurance carrier.

Key Findings:

- The selected insurance carriers reported 7,520 legacy claims, pre-Sept 2011 injuries with post-Aug 2012 N-drug prescriptions (see Table 2).
- Of the 7,520 legacy claims with N-Drug prescriptions, 4,829 (64 percent) either no longer receive N-drugs or are subject to claim-by-claim agreements between their prescribing doctor and insurance carrier (see Table 5).
- Approximately 47 percent (3,554) of the reported legacy claims no longer receive prescriptions for N-drugs (see Table 5).

² Some insurance carriers who did not conduct peer-to-peer conversations with prescribing doctors did conduct initial reviews of individual claims and in some cases, sent written communications to the prescribing doctor that the insurance carrier had “voluntarily certified” ongoing use of the prescription drug(s) associated with the specific workers’ compensation claim.

- The insurance carriers reached agreements with prescribing doctors for 17 percent (1,275) of legacy claims (see Table 5).
- Approximately 36 percent of the legacy claims (2,691 claims) are without agreements, still receiving N-drugs, and subject to the new formulary rules effective September 1, 2013 (see Table 5).
- Insurance carriers sent letters to 98 percent of these legacy claims, to the prescribing doctors of 98 percent of these legacy claims, and to pharmacies that dispensed N-drugs to 84 percent of these legacy claims (see Tables 2 and 3).
- Insurance carriers had peer-to-peer conversations with prescribing doctors for 22 percent (1,683) of legacy claims (see Table 4).
- Approximately 76 percent of peer-to-peer conversations between insurance-carrier doctors and prescribing doctors led to claim-by-claim agreements (Figure 2).

Table 2
 Letters to Injured Employees and Prescribing Doctors
 As a Percentage of the Number of Legacy N-drug Claims

Insurance Carriers	Number of Legacy N-drug Claims Reported	Letters to Injured Employees		Letters to Prescribing Doctors	
		Number	%	Number	%
Texas Mutual Insurance Co	1,955	1,955	100%	1,955	100%
Liberty Insurance Corp	715	650	91%	650	91%
Liberty Mutual Fire Insurance Company	479	446	93%	446	93%
New Hampshire Insurance Co	437	420	96%	420	96%
Texas Property & Casualty Insurance Guaranty Association	414	414	100%	414	100%
American Home Assurance	411	389	95%	389	95%
Facility Insurance Corp	401	401	100%	401	100%
Texas Municipal League Intergovernmental Risk Pool	352	352	100%	352	100%
Insurance Co of the State of PA	325	314	97%	314	97%
Zurich American Insurance Co	301	300	100%	301	100%
Ace American Insurance Co	282	279	99%	280	99%
State Office of Risk Management	262	261	100%	261	100%
Old Republic Insurance Co	226	223	99%	223	99%
Travelers Indemnity Co	220	220	100%	220	100%
Indemnity Insurance Co of North America	214	212	99%	212	99%
Arrowood Indemnity Co	161	160	99%	160	99%
Hartford Ins Co of the Midwest	107	100	93%	104	97%
United States Fidelity & Guaranty Co	61	53	87%	58	95%
City of Austin	57	56	98%	56	98%
Hartford Fire Insurance Co	33	31	94%	33	100%
Texas Department of Transportation	25	25	100%	25	100%
Texas A & M University System	25	25	100%	25	100%
Harris County	14	13	93%	13	93%
Safeco Insurance Co of America	12	11	92%	11	92%
Texas Cotton Ginners Trust	12	11	92%	11	92%
University of Texas System	11	10	91%	10	91%
Travis County	5	3	60%	3	60%
Big Spring ISD	2	1	50%	1	50%
Amguard Insurance Co	1	1	100%	1	100%
Total	7,520	7,336	98%	7,349	98%

Source: Self-reported data from selected insurance carriers, Insurance Carrier Pharmacy Closed Formulary Data Call, 2013.

Table 3
Letters to Pharmacies
As a Percentage of the Number of Legacy N-drug Claims

Insurance Carriers	Number of Legacy N-drug Claims Reported	Letters to Pharmacies	
		Number	%
Texas Mutual Insurance Co	1,955	1,955	100%
Liberty Insurance Corp	715	133	19%
Liberty Mutual Fire Insurance Company	479	177	37%
New Hampshire Insurance Co	437	410	94%
Texas Property & Casualty Insurance Guaranty Association	414	414	100%
American Home Assurance	411	317	77%
Facility Insurance Corp	401	401	100%
Texas Municipal League Intergovernmental Risk Pool	352	352	100%
Insurance Co of the State of PA	325	298	92%
Zurich American Insurance Co	301	299	99%
Ace American Insurance Co	282	260	92%
State Office of Risk Management	262	261	100%
Old Republic Insurance Co	226	221	98%
Travelers Indemnity Co	220	220	100%
Indemnity Insurance Co of North America	214	194	91%
Arrowood Indemnity Co	161	114	71%
Hartford Ins Co of the Midwest	107	105	98%
United States Fidelity & Guaranty Co	61	41	67%
City of Austin	57	0	0%
Hartford Fire Insurance Co	33	33	100%
Texas Department of Transportation	25	25	100%
Texas A & M University System	25	25	100%
Harris County	14	13	93%
Safeco Insurance Co of America	12	0	0%
Texas Cotton Ginners Trust	12	11	92%
University of Texas System	11	10	91%
Travis County	5	0	0%
Big Spring ISD	2	1	50%
Amguard Insurance Co	1	1	100%
Total	7,520	6,291	84%

Source: Self-reported data from selected insurance carriers, Insurance Carrier Pharmacy Closed Formulary Data Call, 2013.

Table 4
Peer-to-Peer Conversations with Prescribing Doctors
As a Percentage of the Number of Legacy N-drug Claims

Insurance Carriers	Number of Legacy N-drug Claims Reported	Peer-to-Peer Conversations	
		Number	%
Texas Mutual Insurance Co	1,955	826	42%
Liberty Insurance Corp	715	2	0%
Liberty Mutual Fire Insurance Company	479	4	1%
New Hampshire Insurance Co	437	44	10%
Texas Property & Casualty Insurance Guaranty Association	414	57	14%
American Home Assurance	411	57	14%
Facility Insurance Corp	401	117	29%
Texas Municipal League Intergovernmental Risk Pool	352	3	1%
Insurance Co of the State of PA	325	27	8%
Zurich American Insurance Co	301	119	40%
Ace American Insurance Co	282	109	39%
State Office of Risk Management	262	2	1%
Old Republic Insurance Co	226	62	27%
Travelers Indemnity Co	220	57	26%
Indemnity Insurance Co of North America	214	50	23%
Arrowood Indemnity Co	161	103	64%
Hartford Ins Co of the Midwest	107	17	16%
United States Fidelity & Guaranty Co	61	5	8%
City of Austin	57	12	21%
Hartford Fire Insurance Co	33	4	12%
Texas Department of Transportation	25	3	12%
Texas A & M University System	25	0	0%
Harris County	14	2	14%
Safeco Insurance Co of America	12	0	0%
Texas Cotton Ginners Trust	12	0	0%
University of Texas System	11	1	9%
Travis County	5	0	0%
Big Spring ISD	2	0	0%
Amguard Insurance Co	1	0	0%
Total	7,520	1,683	22%

Source: Self-reported data from selected insurance carriers, Insurance Carrier Pharmacy Closed Formulary Data Call, 2013.

Table 5
 Claims Status and Percentage of Claims Remaining
 As a Percentage of the Number of Legacy N-drug Claims

Insurance Carriers	Number of Legacy N-drug Claims Reported	Number of Agreements Reached	Number of Legacy Claims No Longer Receiving N-drugs	Number of Remaining Legacy Claims without agreements	Percent Of Total Claims
Texas Mutual Insurance Co	1,955	654	1,249	52	3%
Liberty Insurance Corp	715	2	485	228	32%
Liberty Mutual Fire Insurance Company	479	2	255	222	46%
New Hampshire Insurance Co	437	1	229	207	47%
Texas Property & Casualty Insurance Guaranty Association	414	186	73	155	37%
American Home Assurance	411	35	157	219	53%
Facility Insurance Corp	401	115	107	179	45%
Texas Municipal League Intergovernmental Risk Pool	352	0	166	186	53%
Insurance Co of the State of PA	325	9	149	167	51%
Zurich American Insurance Co	301	40	96	165	55%
Ace American Insurance Co	282	14	84	184	65%
State Office of Risk Management	262	2	217	43	16%
Old Republic Insurance Co	226	50	71	105	46%
Travelers Indemnity Co	220	16	24	180	82%
Indemnity Insurance Co of North America	214	3	82	129	60%
Arrowood Indemnity Co	161	80	0	81	50%
Hartford Ins Co of the Midwest	107	14	28	65	61%
United States Fidelity & Guaranty Co	61	8	19	34	56%
City of Austin	57	12	25	20	35%
Hartford Fire Insurance Co	33	5	4	24	73%
Texas Department of Transportation	25	15	0	10	40%
Texas A & M University System	25	0	18	7	28%
Harris County	14	3	4	7	50%
Safeco Insurance Co of America	12	0	4	8	67%
Texas Cotton Ginners Trust	12	2	2	8	67%
University of Texas System	11	7	1	3	27%
Travis County	5	0	3	2	40%
Big Spring ISD	2	0	1	1	50%
Amguard Insurance Co	1	0	1	0	0%
Total	7,520	1,275	3,554	2,691	36%

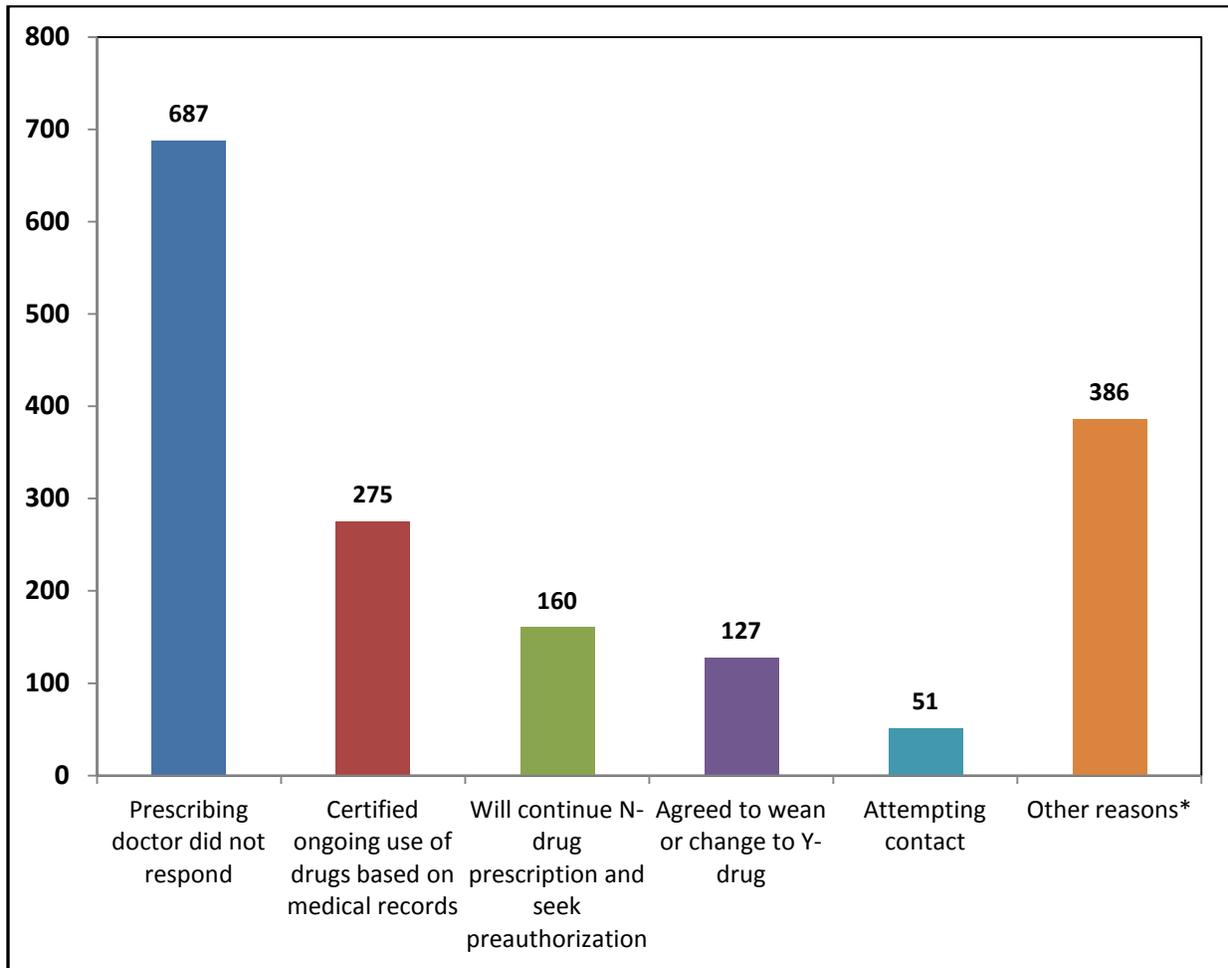
Source: Self-reported data from selected insurance carriers, Insurance Carrier Pharmacy Closed Formulary Data Call, 2013.

Table 6
Reasons Insurance Carriers Did Not Reach Agreement with Prescribing Doctors
As a Percentage of the Number of Responses

Insurance Carriers	Reasons					
	<ol style="list-style-type: none"> 1. Employee no longer receiving N-drug 2. Agreement still in negotiation 3. Carrier hasn't yet initiated peer to peer conversation 4. Prescribing doctor unavailable to discuss employee's treatment 5. Other (Please explain) 					
	#1	#2	#3	#4	#5	Total
Texas Mutual Insurance Co	96%	0%	0%	0%	4%	1,514
Liberty Insurance Corp	68%	0%	0%	16%	16%	698
Liberty Mutual Fire Insurance Company	53%	0%	0%	13%	33%	450
New Hampshire Insurance Co	52%	0%	0%	13%	35%	434
Texas Property & Casualty Insurance Guaranty Association	32%	0%	0%	3%	65%	399
American Home Assurance	40%	3%	0%	17%	40%	347
Facility Insurance Corp	37%	0%	0%	53%	10%	339
Texas Municipal League Intergovernmental Risk Pool	47%	1%	0%	0%	52%	330
Insurance Co of the State of PA	45%	1%	0%	20%	35%	291
Zurich American Insurance Co	37%	0%	0%	41%	22%	271
Ace American Insurance Co	31%	0%	0%	25%	44%	256
State Office of Risk Management	83%	5%	0%	0%	12%	248
Old Republic Insurance Co	40%	0%	2%	13%	46%	205
Travelers Indemnity Co	11%	0%	0%	72%	16%	178
Indemnity Insurance Co of North America	38%	0%	0%	20%	42%	152
Arrowood Indemnity Co	0%	0%	2%	36%	62%	53
Hartford Ins Co of the Midwest	33%	0%	2%	26%	40%	43
United States Fidelity & Guaranty Co	34%	0%	0%	0%	66%	41
City of Austin	58%	0%	0%	0%	42%	23
Hartford Fire Insurance Co	24%	0%	0%	29%	47%	21
Texas Department of Transportation	0%	0%	0%	0%	100%	17
Texas A & M University System	72%	0%	0%	0%	28%	11
Harris County	44%	22%	22%	11%	0%	9
Safeco Insurance Co of America	40%	10%	10%	0%	40%	8
Texas Cotton Ginners Trust	22%	0%	0%	0%	78%	8
University of Texas System	33%	0%	0%	0%	67%	5
Travis County	60%	0%	0%	0%	40%	5
Big Spring ISD	100%	0%	0%	0%	0%	1
Amguard Insurance Co	100%	0%	0%	0%	0%	1
Total	57%	1%	0%	16%	27%	6,256

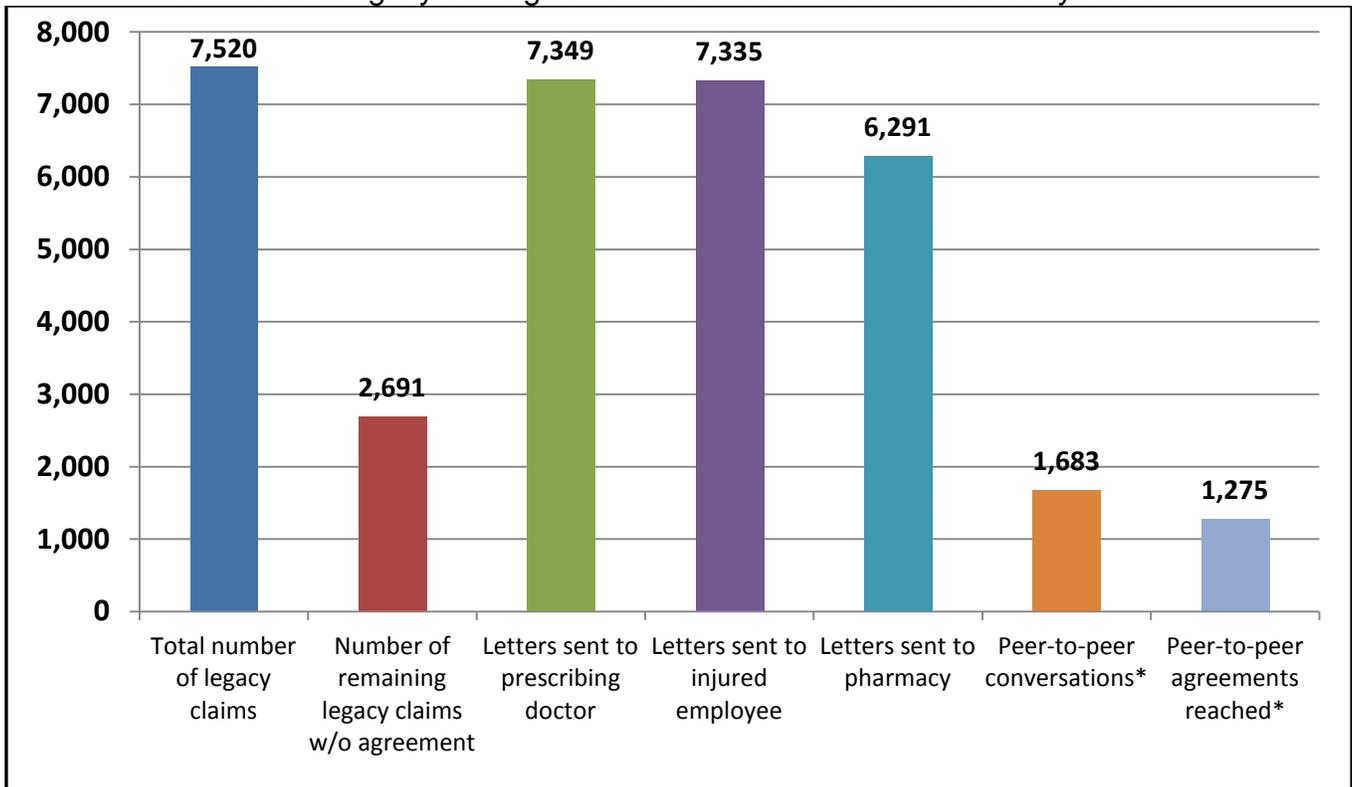
Source: Self-reported data from selected insurance carriers, Insurance Carrier Pharmacy Closed Formulary Data Call, 2013.
Note: The number of reasons exceeds the total number of claims without agreements because some reasons were added when not required. Rounding may lead to total percentages not equal to 100%.

Figure 1
Most Frequent 'Other' Reasons Insurance Carriers Reported
for Not Having Agreements with Prescribing Doctors



Source: Self-reported data from selected insurance carriers, Insurance Carrier Pharmacy Closed Formulary Data Call, 2013.
 Note: *Other Reasons include Provider No Longer Treating Injured Employee, Refused to Discuss Claim, Will Address in Future Medical Appointment, and No Agreement Reached.

Figure 2
Number of Legacy N-drug Claims and Insurance Carrier Activity Counts



Source: Self-reported data from selected insurance carriers, Insurance Carrier Pharmacy Closed Formulary Data Call, 2013.
 Note: *Of the 1,683 peer-to-peer conversations held between insurance carriers and prescribing doctors, 1,275 (76%) ended in agreements reached.



Texas Department of Insurance Workers' Compensation Research and Evaluation Group

For more information, contact via email: WCResearch@tdi.texas.gov

Texas Department of Insurance WCREG Website:
www.tdi.texas.gov/wc/regulation/roc/

Per Chapter 405 of the *Texas Labor Code*, the Workers' Compensation Research and Evaluation Group (REG) at the Texas Department of Insurance is responsible for conducting professional studies and research on various system issues, including:

- the delivery of benefits;
 - litigation and controversy related to workers' compensation;
 - insurance rates and rate-making procedures;
 - rehabilitation and reemployment of injured employees;
 - the quality and cost of medical benefits;
 - employer participation in the workers' compensation system;
 - employment health and safety issues; and
 - other matters relevant to the cost, quality, and operational effectiveness of the workers' compensation system.
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